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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,704	01/16/2002	Scott R. Allen	YAK 357	1359
23581	7590	03/24/2005	EXAMINER	
KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL STREET SUITE 200 PORTLAND, OR 97204			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,704

Applicant(s)

ALLEN, SCOTT R. 

Examiner

Tri M. Mai

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The allowability of claims 2, 8, 9-13, and 18-26 are hereby withdrawn.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the support member being rectangular in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 1, 2, 14, 18, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (1433741). Parker teaches a device having a pair of cross bar 15, a support member 16 that telescopes out of the cross bar, and a stop mechanism 18, a load retainer 26.

Art Unit: 3727

Regarding claim 2, note portion 17 is the collar and portion 18 being the contact member.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker. It would have been obvious to one of ordinary skill in the art to provide a rectangular cross section in Parker to provide added strength.

5. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker in view of Bradford (2444422). It would have been obvious to one of ordinary skill in the art to provide a coating of aluminum in Parker as taught by Bradford to provide added protection.

6. Claims 1, 2, 14, 15, 18, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggum (2729499). Parker teaches a device having a pair of cross bar 14, a support member 21 that telescopes out of the cross bar, and a stop mechanism 26, a load retainer 24.

7. Claims 1, 2, 14, 18, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wille (3596788). Wille teaches a rack device having a pair of cross bar 44, a support member 40 that telescopes out of the cross bar, and a stop mechanism 47, a load retainer 80 or 39. Note that the load support can be extended at the height of the crossbar, even at the fully extended working position.

Regarding claim 2, note collar 45.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker in view of Bradford (2444422). It would have been obvious to one of ordinary skill in the art to provide a coating of aluminum in Parker as taught by Bradford to provide added protection.

9. Claims 1, 2, 14, 18, 22, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tappan (4058243) in view of Wille. It would have been obvious to one of

Art Unit: 3727

ordinary skill in the art to provide the telescoping mechanism in Tappan as taught by Wille to provide an alternative frame structure.

Regarding claim 23, note the deploying the support member, the support a portion of the boat with the support member, position the boat over pair of crossbars, and the load retainer 86.

10. Claims 1, 2, 4-12, 14-15, 18-22, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Simonett (5217149). Simonett teaches a rack device having a pair of crossbars 2, a support member 1, a stop mechanism 10, a load retainer 1b.

Regarding claim 2, note the collar and the contact member 9.

T.M. Regarding claim 5, portion 1 is symmetrical with respect to the plane and coincide with the longitudinal axis.

Regarding claim 8, the contact member 9 is at the end of the support member when portion 1 is extended substantially fully the length of the bar.

Regarding claim 9, note the collars in figs 6-8, 16-18, and 20-22.

Regarding claim 15, note the square cross section (col. 5, ln. 7).

11. Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker in view of Bradford (2444422). It would have been obvious to one of ordinary skill in the art to provide a coating of aluminum in Parker as taught by Bradford to provide added protection.

12. Claims 23, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Simms (3460694). Simms teaches a method comprising a deploying a support members 52, supportint the boat with the support member, positioning the boat over the crossbars, and storing the support member in the first cross bar.

Regarding claim 24 note portions 64 and 34.

Art Unit: 3727

Regarding claim 26, note the retainers 73.

13. Claims 23, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wrenn (4960356). Wrenn teaches a method comprising a deploying a support members 52, supporting the boat with the support member, positioning the boat over the crossbars, and storing the support member in the first cross bar.

Regarding claim 26, note the retainers 136, 138.

14. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrenn in view of Willie (3596788). It would have been obvious to one of ordinary skill in the art to provide a stop mechanism including a collar in Wrenn as taught by Willie to provide provide added safety.

15. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willie in view of Cudmore(4034879) or Wrenn. It would have been obvious to one of ordinary skill in the art to provide load a boat in Willie as taught by either Cudmore or Wrenn to transport an alternative content.

Election/Restrictions

16. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2, and 4-17, drawn to a rack device, classified in class 224, subclass 310.
- II. Claims 23-26 drawn to a method of loading a boat, classified in class 414, subclass 462.
- III. Claims 18-21, drawn to a load device, classified in class 81, subclass 484.

The inventions are distinct, each from the other because of the following reasons:

Art Unit: 3727

17. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the rack can be used to hold other contents, e.g., skis, tents, poles, ladders, etc., and the product as claimed can be used in a materially different process of using that product, e.g., the product as claimed can be extended outward to support wide body contents without the step of storing the support member in the cross bar.

18. Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because The combination as claimed does not require the particular of claim 18, i.e., the collar. The subcombination has separate utility such as, it can be used as an extension device for a walking stick, a retractable for a handle.

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

20. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Art Unit: 3727

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

